

### **REMARKS/ARGUMENTS**

Claims 1-7 stand rejected by the Office Action of September 7, 2004. No claims have been amended, cancelled or added. Claims 1-7 remain in the application.

The examiner has objected to an informality in the specification in that the "received" in paragraph [0016] of page 4 should be "receive." The specification has been so amended. With this amendment, applicant respectfully requests the withdrawal of the objection.

The examiner has rejected claims 1-7 under 35 USC 103(a) as being unpatentable over Snowden (U.S. Pat. No. 4,053,057) in view of Berman et al. (U.S. Pat. No. 5,641,550). In particular, the examiner states that Snowden discloses suspended filing folders comprising at least one flexible index tab (20) having flexible lugs (18) for insertion into spaced vertical slots (17), the flexible index tab having a space for receiving a label as seen in Fig. 4. The examiner concludes that Snowden discloses the claimed invention except for providing at least one pad comprising a plurality of labels in the space of the index tab. In this regard, the examiner states that Berman discloses a note pad (10) comprising a plurality of labels (12, 14, 16), each of the labels comprising a sheet having an upper surface for entering information (referencing col. 3, lines 44-49) and a lower surface coated with a releasable adhesive (18) (referenced Fig. 1). The examiner concludes that it would have been obvious to one having ordinary skill in the art at the time of the invention to modify Snowden's invention by replacing the label of Snowden with a notepad having a plurality of labels, as taught by Berman, to provide an indexing system with a plurality of labels for including additional information in the index tab.

The applicant respectfully traverses the examiner's rejection of the claims 1-7 for the following reasons.

First, the examiner characterizes the notepad taught by Berman et al. as comprising a plurality of "labels." However, Berman does not use this term (referring instead to "sheets") and does not teach any specific use of his notepad for any purpose other than taking notes. In particular, Berman does not teach attaching the notepad to an index label or in any way suggest the desirability of doing so. While Berman teaches applying the notepad to various work surfaces, the specific examples (table, desk, refrigerator, doorway) are not such as to suggest the use of the notepad in conjunction with an index tab. In fact, the enumerated work surface examples suggest the use of the notepad for taking notes and do not suggest any other purpose. The examiner has not identified any teaching in the prior art to suggest the desirability of combining a notepad with an index tab. Neither Snowden nor Berman provide such a motivation.

Second, the prior art cited by the examiner provides no indication that the problem identified by the present invention has been recognized by either Snowden or Berman. Berman simply does not address the subject of index tabs at all. Snowden, while teaching an index tab, discloses no perceived need to employ labels that can be adhered to the outer surface of the index tab or to allow used labels to be easily removed by peeling the topmost used label from a pad of labels adhered to the index tab. Snowden does not suggest using the space on the exterior of the index tab for a label. Such would be contrary to Snowden's teaching that the label is inserted into the space between the front and back portions of the index tab.

Third, Berman is not analogous art that the inventor would have been expected to examine to discover the answer to the problem he had identified. The problem identified as requiring solution in the present invention (see generally paragraph [0004] of the specification) is the inconvenience of the prior art type of labelling system where the labels must be inserted into the space between the front and back portions of the index tab. When labels require changing to reflect the changing contents of the file folder or to allow the folder to be reused for a different purpose, the old label must be removed from the index tab, which may require removing the index tab from the folder before the new label can be inserted and then reinstalling an index tab in the file folder. In addition, the prior art system also suffers from a tendency for the labels to fall out of the index tab and become lost. It is clear from simply stating the problem that a person of ordinary skill in the art is not led to search in the field of notepads to find an answer. Without knowing *a priori* the answer conceived of by the inventor, one would have no reason to consider the field exemplified by Berman. Berman is therefore not analogous to the problem faced by the inventor and cannot be used to suggest that the invention is obvious with respect to such art.

Finally, applying the notepad of Berman to the index tab of Snowden would produce an unworkable combination. As shown in Fig. 3, the label 32 of Snowden is taught as being inserted into the tab rather than affixed to the surface of the tab. Inserting the notepad of Berman inside the index tab as taught by Snowden would defeat the purpose of having a plurality of sheets.

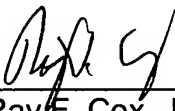
In summary, the prior art cited by the examiner provides no motivation to combine the references as suggested by the examiner, the prior art cited by the

examiner shows no indication that the problem solved by the present invention was recognized in the prior art, the art cited by the examiner (Berman) is not analogous to the problem faced by the inventor and the combination of the teachings of the cited references would produce an unworkable combination. Combining Snowden and Berman is therefore improper and may not be the basis for a prima facie case of obviousness. Therefore, it is respectfully submitted that the claimed invention cannot be considered obvious with respect to the cited references.

For the reasons stated above, claims 1-7 should be allowable. Reconsideration and allowance of the claims is, therefore, respectfully requested.

Respectfully submitted,

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